

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:08-CR-00004-
	§	SDJ-AGD
OMAR VALDEZ (1)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the court is the request for revocation of Defendant Omar Valdez's ("Defendant") supervised release. After the District Judge referred the matter to this court for a report and recommendation, the court conducted a hearing on July 31, 2024, to determine whether Defendant violated his supervised release. Defendant was represented by Michael Pannitto. The Government was represented by Wes Wynne.

Defendant was sentenced on August 20, 2008, before The Honorable Marcia A. Crone of the Eastern District of Texas after pleading guilty to the offense Conspiracy to Possess with Intent to Manufacture and Distribute Methamphetamine, a Class A felony. This offense carried a statutory minimum of not less than 10 years imprisonment and a statutory maximum imprisonment term of Life. The guideline imprisonment range, based on a total offense level of 31 and a criminal history category of IV, was 151 to 188 months. Defendant was subsequently sentenced to 180 months imprisonment followed by a 5-year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure, drug testing and treatment, and obtain a GED certificate. On January 2, 2019, pursuant to 18 U.S.C. § 3582(c)(2), the imprisonment portion of the sentence was reduced to 143 months. On January 7, 2019, Defendant completed his period of imprisonment and began service of the supervision term. On March 16, 2020, jurisdiction of this case was transferred to the Northern District of Texas and the

case was reassigned to The Honorable Jane J. Boyle, U.S. District. On July 11, 2024, jurisdiction of the case was transferred back to the Eastern District of Texas, and the case was reassigned to the Honorable Sean D. Jordan, U.S. District Judge.

On July 22, 2024, the United States Probation Officer executed a First Amended Petition for Warrant or Summons for Offender Under Supervision (Dkt. #55, Sealed). The First Amended Petition asserts that Defendant violated five (5) conditions of supervision, as follows: (1) Mandatory Condition Defendant shall not commit another federal, state, or local crime; (2) Mandatory Condition Defendant shall not unlawfully possess a controlled substance; (3) Standard Condition Defendant shall answer truthfully all inquiries by the Probation Officer and follow the instructions of the Probation Officer; (4) Standard Condition Defendant shall support his or her dependents and meet other family responsibilities; and (5) Special Condition Defendant shall provide the Probation Officer with access to any requested financial information for purposes of monitoring Defendant's attempts to obtain and maintain lawful employment. (Dkt. #55 at pp. 1–3, Sealed).

The First Amended Petition alleges that Defendant committed the following acts: (1) Defendant committed the offense of Conspiracy to Possess with Intent to Manufacture and Distribute Methamphetamine. At the time of the final revocation hearing, this matter remained pending in the Eastern District of Texas under Docket No. 4:20-CR-381. An 11(c)(1)(C) plea agreement was reached by the parties. According to the Information, on or about January 2020, and continuously thereafter up to and including May 12, 2022, Defendant did knowingly and intentionally combine, conspire, and agree with other persons known and unknown to knowingly and intentionally possess with intent to distribute a mixture or substance containing a detectable amount of methamphetamine in the Eastern District of Texas. Defendant was sentenced on

September 3, 2024, to a 60-month term of imprisonment; (2) Defendant possessed methamphetamine, a controlled substance, from January 2020 up to and including May 12, 2022, as indicated under Docket No. 4:20-CR-381; (3) After May 23, 2019, Defendant made untruthful statements to his supervising United States Probation Officer (“USPO”) by falsely reporting he was making child support payments. On June 24, 2019, September 4, 2019, December 10, 2019, and April 21, 2020, the supervising USPO instructed Defendant to provide proof of his child support payments. Defendant never produced proof of payments. On August 25, 2020, the supervising USPO obtained payment history information from the Attorney General of Texas, Child Support Division, that revealed Defendant was ordered to pay \$495 per month in child support. At the time, he owed \$10,880.45 and had only made one payment, which was on May 23, 2019; (4) Defendant failed to support his dependents by not making his court-ordered child support payments, as indicated above; and (5) On July 9, 2020, and November 19, 2020, the supervising USPO instructed Defendant to provide the United States Probation Office with his tax returns to verify employment. Defendant failed to provide the requested financial information. (Dkt. #55 at pp. 1–3, Sealed).

Prior to the Government putting on its case at the final revocation hearing, Defendant entered a plea of true to allegation 1 in the First Amended Petition. Having considered the First Amended Petition and the plea of true to allegation 1, the court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this court.

The Government moved to dismiss allegations 2–5.

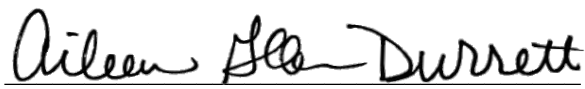
RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for an additional term of thirty-seven (37) months, to run consecutive to any sentence imposed in 4:20-CR-381, with no term of supervised release to follow.

The court further recommends that the Government's motion to dismiss allegations 2–5 of the First Amended Petition be granted.

The court finally recommends that Defendant be housed in a Bureau of Prisons facility in the Beaumont, Texas area, if appropriate.

SIGNED this 4th day of October, 2024.


AILEEN GOLDMAN DURRETT
UNITED STATES MAGISTRATE JUDGE